UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD DIVISION OF JUDGES SAN FRANCISCO BRANCH OFFICE

SUN CAB, INC. d/b/a NELLIS CAB COMPANY

and Case 28-CA-079813

ABIY AMEDE, an Individual

Larry A. "Tony" Smith, Esq., of Las Vegas, Nevada, for the Acting General Counsel.

James T. Winkler, Esq., (Littler Mendelson, P.C.,) of Las Vegas, Nevada, for the Respondent.

DECISION

Statement of the Case

JAY R. POLLACK, Administrative Law Judge: I heard this case in trial at Las Vegas, Nevada, on September 25-26, 2012. On April 27, 2012, Abiy Amede filed the charge in Case 28-CA-079812 alleging that Sun Cab, Inc., d/b/a Nellis Cab Company (Respondent) committed certain violations of Section 8(a)(1) and (3) of the National Labor Relations Act, as amended (29 U.S.C. Section 151 et seq., herein called the Act). Amede filed the first amended charge on June 27, 2012. On June 29, 2012, the Regional Director for Region 28 of the National Labor Relations Board issued a complaint and notice of hearing against Respondent alleging that Respondent violated Section 8(a)(1) and (3) of the Act. Respondent filed a timely answer to the complaint denying all wrongdoing.

The parties have been afforded full opportunity to appear, to introduce relevant evidence, to examine and cross-examine witnesses and to file briefs. Upon the entire record, from my observation of the demeanor of the witnesses¹ and having considered the post-hearing briefs of the parties, I make the following:

¹ The credibility resolutions herein have been derived from a review of the entire testimonial record and exhibits, with due regard for the logic of probability, the demeanor of the witnesses, and the teachings of *NLRB v. Walton Manufacturing Company*, 369 U.S. 404, 408 (1962). As to those witnesses testifying in contradiction to the findings herein, their testimony has been discredited, either as having been in conflict with credited documentary or testimonial evidence or because it was in and of itself incredible and unworthy of belief.

Findings of Fact

I. Jurisdiction

Respondent, a corporation, with an office and place of business in Las Vegas, Nevada, has been engaged in the operation of taxicab services in Las Vegas, Nevada. During the 12 months prior to the filing of the charge, Respondent purchased and received goods valued in excess of \$50,000 directly from outside the State of Nevada. During the same time period, Respondent received gross revenues in excess of \$500,000. Respondent admits and I find that Respondent is an employer engaged in commerce within the meaning of Section 2(2)(6) and (7) of the Act.

II. The Alleged Unfair Labor Practices

15 A. Facts

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Respondent is engaged the business of providing taxicab services in the Las Vegas metropolitan area. It is 1 of 16 cab companies certified to operate in Las Vegas by the Taxi Authority. Respondent has 137 medallions which permit it to operate some of the approximately 171 cabs which it owns. There are different categories of medallions, some of which allow unrestricted use and some which have geographic or time restrictions.

When a driver gets a cab, he or she receives a trip sheet from the supervisor that has basic information about the cab and the driver. The drivers must provide information on the trip sheet, including the start time and stop time of their shift, the pickup time and location for their rides, the drop-off location for their rides, the fare for each ride, the mandatory one-hour lunch break, and miscellaneous information for total mileage, fees and fares. Drivers are not paid an hourly wage, and are only paid a commission which is based on one half of their "net book."

In early 2012, in response to the Taxi Authority considering awarding more medallions to the Las Vegas taxi companies, taxi drivers from across 16 different Las Vegas cab companies organized a concerted effort to protest the additional medallions and the resulting increase in the number of operating taxicabs. The drivers were concerned that an increase in the number of taxicabs would result in fewer fares and thus, less income for the drivers. The employees decided to hold an industry-wide extended break to take place on Saturday February 4, the day before Super bowl Sunday. This extended break was participated in by employees of all the Las Vegas cab companies. Several of Respondent's drivers started their breaks by driving to an Ethiopian restaurant where they found drivers from all of the Las Vegas cab companies. Over a short period of time, approximately 200 cabs from the 16 cab companies gathered at the restaurant. Many of the drivers drove their cabs down Las Vegas Boulevard while refusing to pick up passengers. After driving down the Boulevard honking their horns and flashing their lights, the drivers returned their cabs to service. The extended break lasted for approximately two to three hours.

Some of Respondent's drivers continued picking up customers and collecting fares for the remainder of their shifts, some drivers were ordered to gas their cabs and return to Respondent's yard. Respondent suspended seventeen drivers for participating in the extended break. Each of the seventeen suspended drivers was given a warning which stated that they

had taken more than the one hour lunch break in violation of Respondent's rules.² Some of the drivers were also given warnings for falsifying their trip sheets.

Respondent amended its employee handbook to add disciplinary action for "any partial strike, sit down strike or work slowdown that is unprotected by the National Labor Relations Act or any other federal law, is against company policy, is prohibited and will subject the employee to discipline up to and including termination" and required all the drivers to sign for receipt of the amendment.

When the drivers were suspended for their participation in the extended break, they were called into the office of Jamie Pinto, Respondent's director of operations. During these meetings the drivers were told that this was their final written warning. Pinto asked why they took the long break and also asked the identity of the leader.

Employee Abiy Amede spoke against the issuance of more medallions at a Taxi Authority meeting attended by Jamie Pinto. When Amede was suspended, he was called into Pinto's office. Ray Chenoweth, Respondent's owner was present. Chenoweth asked how long Amede had worked for Respondent and whether he liked working for Respondent. Chenoweth also asked whether Amede had received a Christmas bonus. Following the suspensions for the February 4 extended break, Respondent's drivers met with the Union. On or about February 16, 2012 the Union set an organizing letter to Respondent informing it that an organizing campaign was underway and specifically named committee members including Abiy Amede.

Amede signed a union authorization card and solicited cards from other drivers. On or about April 18, Amede went to McCarran Airport in Las Vegas to pass out union information to Respondent's drivers on his day off.

On April 20, Amede was involved in an automobile accident. The damage to his cab was minor. Amede was told to go home by his supervisor and to call in on Monday. When Amede called in, he was told that he was terminated. The written reason for Amede's termination was "too many at fault accidents." After Amede's termination it was determined that he was not at fault.

Respondent presented evidence that in November 2011, it was faced with increased auto insurance costs. Respondent adopted an on-line driver safety course to be taken by drivers with frequent accidents. Beginning in 2012, Respondent adopted a new approach to the termination of drivers who had accidents. Drivers would be terminated based on the frequency of accidents. Between January 1, 2012 and July 31, 2012, Respondent terminated 26 drivers for driving accidents. Amede had eight accidents when he was terminated. Pinto testified that at the time Amede was terminated he had eight accidents and that his production had fallen off dramatically for two months. Amede's production in February 2012 was 51% below the average of those in his shift and was 56% below the average in March.

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² The 17 drivers were Dait Alemu, Abiy, Amede, Tadesse A. Asheber, Abinate Bekele, Getachew A. Beyene, Daniel Biru, Abraham Dirar, Kifelemarko Gebreyesus, Getachew B. Haileselassie, Akmel Hasen, Ermias Mehanzel, Senait Terefe, Abraham H. Terffa, Hailemariam G. Wolde, Getadegu Woldemarian, Yonas H. Yadessa and Leusege W. Yezengaw.

B. Conclusions

1. The Strike

The General Counsel contends that the extended break taken by Respondent's taxi drivers was a protected strike. Respondent contends that the strike was an unprotected sit-down strike. Employees can engaged in a protected strike without representation by a union. *NLRB v. Washington Aluminum Co.*, 370 U.S. 9 (1962). The Act protects the right of employee to engage in concerted activities including the right to strike without prior notice. *Bethany Medical Center*, 328 NLRB 1094 (1999). However, there is no absolute right to strike as activity is not protected which is "unlawful, violent, in breach of contract, or otherwise indefensible." *Bethany Medical Center*, 328 NLRB 1094, 1094 (citing *NLRB v. Washington Aluminum Co.*, 370 U.S. 9, 17 (1962). Such unprotected conduct includes the unlawful seizure and retention of an employer's property. *NLRB v. Fansteel Metallurgical Corp.*,306 U.S. 240, 248-257 (1939) (finding a strike was an illegal seizure of the employer's buildings and were acts of force and violence to compel the employer to submit the employees refused police orders and court injunction to leave, and resisted the sheriff which resulted in their arrest.)

Respondent argues that the strike was "an organized, calculated strike involving employees of several companies, designed to financially harm the companies and to deprive the public of service, in an effort not to address grievances to their employers, but to lobby a governmental agency." In *Quietflex Manufacturing Co.* 344 BLRB 1055, 1056 (2005) The Board listed ten factors "that the Board has considered in determining which party's rights should prevail in the context of an on-site work stoppage. "The reason the employees stopped working:

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- (1) Whether the work stoppage was peaceful;
- (2) Whether the work stoppage interfered with production or deprived the employer access to its property;
- (3) Whether employees had adequate opportunity to present grievances to management;
- (4) Whether employees were given any warning that they must leave the premises or face discharge;
- (5) The duration of the work stoppage
- (6) Whether employees were represented or had an established grievance procedure
- (7) Whether employees remained on the premises beyond their shift
- (8) Whether the employees attempted to seize the employer's property; and
- (9) The reason for which the employees were ultimately discharged.

First the General Counsel admits the employees stopped working to protest the number of taxicabs permitted by the Nevada Taxicab Authority. Respondent did not have the ability to remedy this concern. Respondent could refuse any additional medallions. Second, Respondent admits that the work stoppage was peaceful. Third, the work stoppage interfered with Respondent's production, i.e., its ability to serve the public. Respondent was unable to assign the taxicabs to other drivers. Fourth, the employees' grievances were directed at the Taxicab Authority and not really at Respondent's management. Fifth, the employees were not discharged but were suspended for a number of days. Sixth, the work stoppage lasted between two and three hours. Seventh, the employees were not represented and had no established grievance procedure. Eighth, the employees did not remain on the premises or in their cabs after their shift. However, the employees did occupy their cabs beyond a normal lunch break. Ninth, the employees utilized Respondent's taxicabs during the strike, preventing Respondent from using other drivers. Tenth, the employees were not discharged. Respondent admits they were suspended for engaging in the strike, which it contends was unprotected.

General Counsel cites *Easter, Inc v. NLRB,* 437 U.S. 556, 558-566 (1978) for the proposition that the mutual aid or protection clause of Section 7 of the Act "protects employees from retaliation by their employers when they seek to improve working conditions through resort to administrative and judicial forums and that employees' appeals to legislators to protect their interests are within the scope of this clause. In *Essex,* the employer was found to have violated Section 8(a)(1) when it prohibited its employees from distributing flyers regarding a right to work statue, and a Presidential veto of an increase in the federal minimum wage. In *Eastex* the Supreme Court specifically rejected the employer's argument that the mutual aid or protection clause of Section 7 protects only concerted activity by employees that is directed at conditions that their employer has the authority or power to change or control and rejected the argument that the term employees in Section 7 refers only to employees of a particular employer, so that only activity by employees on behalf of themselves or other employees of the same employer is protected.

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The General Counsel argues that the drivers' use of the taxicabs falls far short of an unlawful trespass and seizure. Second, General Counsel argues that there were no drivers to drive the cabs even if the drivers returned the cabs. Respondent disputes this fact. Third, the drivers put the cabs back into service as soon as they were done, as opposed to seizing the property for an extended period of time. Fourth, the drivers did not ignore any police or court orders to return the cabs to service. Fifth, the General Counsel argues that the drivers were not required to insure that Respondent's customers could find alternate service elsewhere. Finally, General Counsel argues that the strike was analogous to a refusal to provide service in a factory arguing that an out of service taxicab is analogous to an unused machine.

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Under *Eastex* the protest against the Taxicab Authority was protected. The issue is whether the utilization of the taxicabs during the protest caused the strike to be unprotected. As noted, the strike lasted between two and three hours. Respondent contends that it could have called other drivers. General Counsel disputes that claim. I find that this one time, short duration strike, did not lose protection of the Act by use of the taxicabs during the protest. The strike was for a short duration. The taxicabs were returned shortly thereafter. I agree with General Counsel that this action falls short of an unlawful trespass or seizure. Respondent did not demand, and the employees did not refuse the return of the cabs during the stoppage. Thus, I find the protest did not lose protection of the Act.

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Allegations of Interrogation

Following the February 4 strike some of Respondent's 17 drivers were called to the office of Jamie Pinto to be disciplined. During the meetings, Pinto told the drivers that this was their final written warning, and asked drivers why they took the long break and also asked the identity of the leader.

The Board's test for determining whether interrogation of employees concerning their union activities or the union activities of other employees is set out in Rossmore House, 269 NLRB 1176, 1177 (1984):

Whether under all of the circumstances the interrogation reasonably tends to restrain, coerce, or interfere with rights guaranteed by the Act.

The Board has said that a totality of the circumstances test must be applied, even when the interrogation is directed to unit members whose union sympathies are unknown to the employer. *Sunnyvale Medical Clinic*, 277 NLRB 1217 (1985). Some of the considerations taken into

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account by the Board in determining whether, under the totality of the circumstances, the interrogation was coercive include: Whether the employee interrogated was an open and active union supporter; whether there is a history of employer hostility towards or discrimination against union supporters, whether the questions were general and non-threatening, and whether the management official doing the questioning had a casual and friendly relationship with employee being questioned. *Sunnyvale Medical Clinic*, supra at 1218.

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I find that this interrogation of the employees, violated Section 8(a)(1) of the Act. Here the employees had engaged in a protected strike and the questions pertaining to the strike and its leader tended to restrain and coerce employees in violation of Section 8(a)(1). I find by this conduct, in the context of unlawful suspensions, Respondent violated Section 8(a)(1) of the Act.

2. The discharge of Abiy Amede

In cases involving dual motivation, the Board employs the test set forth in *Wright Line, A Division of Wright Line, Inc.*, 251 NLRB 1083, 1089 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied, 455 U.S. 989 (1982), approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393, 399-403 (1983). Initially, the General Counsel must establish by a preponderance of the credible evidence that anti-union sentiment was a "motivating factor" for the discipline or discharge. This means that General Counsel must prove that the employee was engaged in protected activity, that the employer knew the employee was engaged in protected activity, and that the protected activity was a motivating reason for the employer's action. *Wright Line, supra*, 251 NLRB at 1090. Unlawful motivation may be found based upon direct evidence of employer animus toward the protected activity. *Robert Orr/Sysco Food Services*, 343 NLRB 1183 (2004). Alternatively, proof of discriminatory motivation may be based on circumstantial evidence, as described in *Robert Orr/Sysco Food Services*, supra at 1184:

To support an inference of unlawful motivation, the Board looks to such factors as inconsistencies between the proffered reasons for the discipline and other actions of the employer, disparate treatment of certain employees compared to other employees with similar work records or offenses, deviations from past practice, and proximity in time of the discipline to the union activity. *Embassy Vacation Resorts*, 340 NLRB No. 94, slip op. at 3 (2003).

When the General Counsel has satisfied the initial burden, the burden of persuasion shifts to Respondent to show by a preponderance of the credible evidence that it would have taken the same action even in the absence of the employee's protected activity. If Respondent advances reasons which are found to be false, an inference that the true motive is an unlawful one may be warranted. *Shattuck Denn Mining Corp. v. NLRB*, 362 F.2d 466, 470 (9th Cir. 1966); *Limestone Apparel Corp.*, 255 NLRB 722 (1981), enfd. 705 F.2d 799 (6th Cir. 1982). However, Respondent's defense does not fail simply because not all the evidence supports its defense or because some evidence tends to refute it. *Merrilat Industries*, 307 NLRB 1301, 1303 (1992). Ultimately, the General Counsel retains the burden of proving discrimination. *Wright Line*, supra, 251 NLRB at 1088, n. 11.

First, Amende was engaged in Union activity and Respondent was aware of that activity. Amede was listed as a member of the Union's organizing committee and his support of the Union was open. On April 18, Amede went to McCarran Airport in Las Vegas to pass out Union information to Respondent's drivers. Under these circumstances, I find that General Counsel has established a prima facie case that Amede was discharged, because of his union activities.

Thus, the burden shifts to Respondent to establish that the same action would have taken place in the absence of the employee's union activities. Where, as here, General Counsel makes out a strong prima facie case under *Wright Line*, the burden on Respondent is substantial to overcome a finding of discrimination. *Eddyleon Chocolate Co.*, 301 NLRB 887, 890 (1991). An employer cannot carry its *Wright Line* burden simply by showing that it had a legitimate reason for the action, but must "persuade" that the action would have taken place even absent the protected conduct. *Centre Property Management*, 277 NLRB 1376 (1985); *Roure Betrand Dupont, Inc.*, 271 NLRB 443 (1984).

As stated above, Respondent was faced with rising insurance costs. As a result Respondent began terminating employees for frequent accidents. On April 20, Amede was involved in an accident which was initially found to be his fault. Based on his history of accidents, Amede was discharged. His discharge was consistent with Respondent's discharge of other employees involved in accidents in 2012.

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Thus, I find that Respondent has established that Amede would have been discharged even in the absence of his union activities. Accordingly, I find that Respondent did not violate ted Section 8(a)(3) and (1) by discharging Amede.

20 Conclusions of Law

1. Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

- 3. By suspending 17 employees for their participation in a lawful work stoppage, Respondent violated Section 8(a)(1) of the act.
- 4. By coercively interrogating employees about their union activities and union sympathies, Respondent violated Section 8(a)(a) of the act.
 - 5. The above unfair labor practices above are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

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6. Respondent did not otherwise violate the Act as alleged in the complaint.

The Remedy

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Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

Respondent having discriminatorily suspended the 17 employees discharged it must make them whole for any loss of earnings Respondent must also be required to expunge any and all references to its unlawful suspensions, from its files and notify the employees in writing that this has been done and that the unlawful discipline will not be the basis for any adverse action against them in the future. *Sterling Sugars, Inc.*, 261 NLRB 472 (1982).

Upon the foregoing findings of fact and conclusions of law, and upon the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended.³

ORDER

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Respondent, Sun Cab, Inc. d/b/a Nellis Cab Company, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

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- (a) Coercively interrogating employees about their protected concerted activities.
- (b) Suspending employees for engaging in a lawful work stoppage.
- (c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
 - 2. Take the following affirmative action necessary to effectuate the policies of the Act:

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(a) Make whole the following 17 drivers: Dait Alemu, Abiy Amede, Tadesse A. Asheber, Abinate Bekele, Getachew A. Beyene, Daniel Biru, Abraham Dirar, Kifelemarko Gebreyesus, Getachew B. Haileselassie, Akmel Hasen, Ermias Mehanzel, Senait Terefe, Abraham H. Terffa, Hailemariam G. Wolde, Getadegu Woldemarian, Yonas H. Yadessa and Leusege W. Yezengaw for any loss of earnings and other benefits suffered as a result of the discrimination against them in the manner set forth in the Remedy section of the decision.

(b) Within 14 days from the date of this Order, remove from its files any reference to the unlawful suspensions of the 17 drivers, and within 3 days thereafter notify them in writing that this has been done and that the discipline will not be used against them in any way.

c) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of back pay due under the terms of this Order.

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(d) Within 14 days after service by the Region, post at its facility in Las Vegas, Nevada copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and

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³ All motions inconsistent with this recommended order are hereby denied. In the event no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

⁴ If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 2012.

(e) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., December 27, 2012.

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APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the National Labor Relations Board An Agency of the United States Government

After a hearing at which all sides had a chance to give evidence, the National Labor Relations Board has found that we violated Section 8(a)(1) and (3) of the National Labor Relations Act, as amended, and has ordered us to post and abide by this notice

The National Labor Relations Act gives all employees the following rights:

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union Choose representatives to bargain with us on your behalf Act together with other employees for your benefit and protection Choose not to engage in any of these protected activities

WE WILL NOT interrogate you about your protected concerted activities or the activities of your fellow employees.

WE WILL NOT suspend employees or discipline employees for engaging in a protected work stoppage.

WE WILL NOT In any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL make whole drivers Dait Alemu, Abiy, Amede, Tadesse A. Asheber, Abinate Bekele, Getachew A. Beyene, Daniel Biru, Abraham Dirar, Kifelemarko Gebreyesus, Getachew B. Haileselassie, Akmel Hasen, Ermias Mehanzel, Senait Terefe, Abraham H. Terffa, Hailemariam G. Wolde, Getadegu Woldemarian, Yonas H. Yadessa and Leusege W. Yezengaw for any loss of earnings suffered as a result of the discrimination against them, with interest.

WE WILL remove from our files any reference to the unlawful suspensions of the 17 drivers, and WE WILL NOT make reference to the permanently removed materials in response to any inquiry from any employer, employment agency, unemployment insurance office, or reference seeker and we will not use the permanently removed material against these employees.

		Sun Cab, Inc., d/b/a Nellis Cab Company		
		(Employer)		
Dated	Ву			
		(Representative)	(Title)	

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov. The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

2600 North Central Avenue, Suite 1800 Phoenix, Arizona 85004-3099 Hours: 8:15 a.m. to 4:45 p.m. 602-640-2160.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 602-640-2146.